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SB-376 Firearms: transfers. (2019-2020)

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Senate Bill No. 376

CHAPTER 738

An act to amend Sections 11106, 11108.2, 16520, 16730, 25555, 26379, 26384, 26405, 26515, 26540, 26805, 26890, 27905, 27966, 28230, and 29010 of, to add Sections 26556, 26576, 26577, 26581, and 27937 to, to repeal Sections 26955 and 27655 of, and to repeal and add Sections 27820 and 27900 of, the Penal Code, relating to firearms.

[Approved by Governor October 11, 2019. Filed with Secretary of State October 11, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

SB 376, Portantino. Firearms: transfers.

Existing law generally requires any person who sells, leases, or transfers firearms to be a licensed dealer, as specified. Existing law exempts infrequent sales, leases, and transfers from this requirement. Existing law generally prohibits the purchase or receipt of a firearm by, or sale, transfer, or loan of a firearm, to, a person who does not have a firearm safety certificate. Existing law exempts from this requirement, the infrequent loan of a firearm. Existing law defines "infrequent" for purposes of this exemption to mean less than 6 handgun transactions per calendar year, or, for firearms other than handguns, an indefinite number of transactions that are "occasional and without regularity."

This bill would redefine "infrequent" to mean less than 6 firearm transactions per calendar year, regardless of the type of firearm, and no more than 50 total firearms within those transactions.

Existing law exempts from the dealer requirement, the transfer of a firearm by bequest or intestate succession, or to a surviving spouse.

This bill would extend that exemption to the transfer of a firearm to a trust beneficiary, as specified.

This bill would also exempt from the requirement specified transfers made by a formerly licensed dealer that is ceasing operations, transfers made to a specified government entity as part of a "gun-buyback" program, and transfers made by a person prohibited from possessing a firearm to a dealer for the purpose of storing that firearm.

Existing law provides certain exemptions to prohibitions on openly carrying a firearm, storage of firearms, dealer processing requirements, and off-premises transactions by a licensed dealer, for specified charity auctions and similar events.

This bill would clarify that these exemptions also apply to charity raffles.

This bill would also remove the limitation on the number of firearm transactions allowed by a charity auction and instead require all firearms sold or otherwise transferred by auction or raffle to be delivered to a licensed dealer for delivery to the recipient.

Existing law requires a person manufacturing 100 or more firearms each year in the state to be licensed as a manufacturer.

This bill would instead require anybody manufacturing 50 or more firearms to be licensed.

Existing law requires a licensed dealer processing the transfer of a firearm to hold the firearm for a designated waiting period before releasing the firearm. Existing law exempts certain firearms transactions that occur as part of a charitable auction, as specified, from this waiting period.

This bill would repeal the waiting period exemption for charitable auctions.

This bill also makes technical and conforming changes and changes that are declaratory of existing law.

A violation of various provisions involving the transfer, manufacture, and carrying of firearms is a crime.

By changing the scope of these offenses, this bill would impose a state-mandated local program.

This bill would make conforming changes to Section 11108.2 of the Penal Code that would be operative only if AB 1669 becomes operative.

This bill would make changes to Section 26556 of the Penal Code that would be operative only if AB 1009 becomes operative.

This bill would incorporate additional changes to Sections 27966 and 28230 of the Penal Code proposed by AB 1009 to be operative only if this bill and AB 1009 are enacted and this bill is enacted last.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. (a) The Legislature finds and declares all of the following:

(1) Prior to 1990, the State of California had minimal regulation of rifles and shotguns as compared to longstanding regulations of handguns. The transfer of long guns was not generally regulated by state law.

(2) In 1988, state law was clarified that in order to sell, loan, or transfer a handgun within this state, the transaction typically had to be by or processed through a state licensed firearms dealer.

(3) In 1989, legislation established a specific threshold for the number of sales, leases, or transfers of handguns that would trigger the requirement that a person needed to be licensed as a dealer. The defined term "infrequent" was used in this legislation to describe that threshold number.

(4) Over the years, the term "infrequent" has been used by reference in other code sections.

(5) Over time, various exemptions from state dealer licensure of firearm transactions have been created.

(6) In 1990, the Legislature passed Assembly Bill 497, which extended the then-15-day waiting period and associated regulations to all firearms and essentially required all firearm transfers to be processed through state licensed dealers. That bill permitted dealers to operate at gun shows in order to process the paperwork for transfers involving long guns which now required their assistance. Dealers so operating were required to obtain a special statewide permit from the Department of Justice.

(7) Because AB 497 represented an expansion of state regulatory authority, it was recognized that several follow-up measures would be required.

(8) Assembly Bill 497 also deregulated transactions involving curio or relic firearms.

(9) In 1991, Assembly Bill 242 further modified the requirements imposed by AB 497 by doing all of the following:

(A) Exempting from dealer licensure the infrequent sale or other transfer by an individual of a firearm, other than a handgun, at auctions or similar events conducted by nonprofit mutual or public benefit corporations organized pursuant to the Corporations Code by adding a discrete exemption for nonprofits and redefining the term "infrequent" as to those transactions.

(B) Exempting from dealer processing the transfer of a firearm other than a handgun, if the firearm is donated for an auction or similar event and the firearm is delivered to the nonprofit corporation immediately preceding, or contemporaneous with,

the auction or similar event.

(C) Repealing the statewide licensing provision.

(D) Re-regulating transactions involving curio and relic handguns as defined by federal law.

(10) In late 1993, the Congress enacted the Brady Handgun Violence Prevention Act which contained both of the following components:

(A) Prior to the delivery of any firearm by a federal firearms licensee, a background check is required to be conducted by the National Instant Criminal Background Check System (NICS).

(B) The Federal Bureau of Investigation would conduct background checks, but a state could designate an agency to conduct electronic federal and state checks.

(11) In 1996, legislation was enacted to provide regulatory relief to federally licensed firearm collectors with Department of Justice certificates of eligibility. That legislation required all transactions to be processed through a state licensed firearms dealer but provided those individuals an exemption from the waiting period.

(12) In 1998, legislation was enacted to require state licensing of federal firearms manufacturers if they manufactured more than 100 firearms within this state.

(13) In 1998, to avoid the creation of duplicative reporting systems, legislation was enacted to require curio and relic rifles and shotguns to be processed through a state licensed firearms dealer unless certain "infrequent transfers" were made by private parties as to certain curio and relic rifles.

(14) At some point, the law that exempted from the licensure requirement, the infrequent sale or transfer of a firearm, other than a handgun, at charity auctions or similar events by adding a discrete exemption for nonprofits and redefining the term "infrequent" as to those transactions, was repealed.

(15) Prior to 2000, Section 19 of Article IV of the California Constitution barred raffles, which are a form of lottery. Assembly Bill 497 was enacted during that time.

(16) In 2000, Senate Constitutional Amendment 4 was approved. It authorized the Legislature to allow private nonprofit organizations to conduct raffles as a funding mechanism to provide support for their own or others beneficial charitable works, as specified.

(17) In 2005, a reporting system was created to track the transfer of firearms between federal firearms licensees to ensure that state licensing requirements were followed. That legislation also exempted transactions involving certain curio and relic rifles and shotguns, creating an ambiguity as to which persons were to be included in, or could enroll in, the system.

(18) In 2009, legislation was enacted to clarify which persons were subject to licensing verification prior to the shipment of a firearm. That legislation did not resolve the ambiguity as to which persons were included in, or could enroll in, the reporting system. The Department of Justice decided that federally licensed collectors and federally licensed manufacturers and importers of ammunition who held no other federal firearms license were not part of the verification program.

(19) In 2011, Assembly Bill 809 was enacted to mandate the same reporting and record retention requirements for handguns and long guns.

(20) Assembly Bill 809 required conforming changes to various statutory procedures relating to record retention. AB 809 did not make related conforming changes to sales of long guns at auctions. This was clearly an oversight.

(21) Assembly Bill 809 also repealed the dealer processing exemption for curio and relic rifles and shotguns but continued the exemption for infrequent transactions by collectors involving curio and relic long guns if the transaction was reported to the Department of Justice. That exemption created its own ambiguities and also created cross-referencing issues.

(22) In 2013, then Attorney General Harris issued Attorney General Opinion 10-504 regarding whether the offense of completing an "unlicensed firearm transaction" is violated by both the person transferring the firearm and the person receiving it. The Attorney General concluded that the offense of completing an unlicensed firearm transaction is committed by both the person transferring the firearm and the person receiving it, and both persons may be prosecuted and punished under the applicable penal statutes for committing the offense. However, the opinion did not conclude whether or not the offense was a continuing offense.

(23) Because most nonprofit corporations that sell firearms to fund their activities use state licensed dealers to process their transactions, the exemption that allows direct delivery of rifles and shotguns is not needed and creates a loophole in the

otherwise comprehensive scheme of background check requirements.

(b) It is therefore the intent of the Legislature in enacting this act to do all of the following:

(1) Repeal the exemption from dealer processing for the infrequent sale or transfer of a firearm other than a handgun, at charity auctions, raffles, or similar events, thus requiring that the transfer of a firearm to the purchaser be processed through a state licensed dealer.

(2) Modernize the dealer licensing exemption for infrequent sale or transfer of a firearm, other than a handgun, at charity auctions, raffles, or similar events by exempting the actual delivery of those firearms to a dealer for processing.

(3) Retain the exemption from dealer processing for the transfer of a firearm, other than a handgun, if the firearm is donated for the auction, raffle, or similar event and the firearm is delivered to the nonprofit corporation immediately preceding, or contemporaneous with, the auction or similar event.

(4) Retain provisions that allow a dealer to accept delivery of firearms, other than handguns, outside the building designated in the license, provided the firearm is being donated for the purpose of sale or transfer at an auction, raffle, or similar event.

(5) Establish a specific maximum number of sales, leases, or transfers that require a person to be licensed as a dealer or that are exempt from dealer processing.

(6) Codify in statute certain existing Department of Justice practices regarding transactions involving curio or relic firearms, and firearm shipment verification procedures.

(7) Exempt from dealer licensure requirements certain other transactions.

(8) Exempt from dealer processing requirements all transfers of curios and relic long guns to licensed collectors, but retain the requirement that those persons who transfer curio and relic long guns directly to licensed collectors be licensed as a dealer unless some specific exemption applies.

(9) Correct drafting errors that were made in AB 809.

(10) Reflect practices in other states that license federal firearm manufacturers.

SEC. 2. Section 11106 of the Penal Code is amended to read:

11106. (a) (1) In order to assist in the investigation of crime, the prosecution of civil actions by city attorneys pursuant to paragraph (3) of subdivision (b), the arrest and prosecution of criminals, and the recovery of lost, stolen, or found property, the Attorney General shall keep and properly file a complete record of all of the following:

(A) All copies of fingerprints.

(B) Copies of licenses to carry firearms issued pursuant to Section 26150, 26155, 26170, or 26215.

(C) Information reported to the Department of Justice pursuant to subdivision (e) of Section 18120, Section 26225, 26556, 27875, 27920, 27966, 29180, or 29830.

(D) Dealers' Records of Sale of firearms.

(E) Reports provided pursuant to Article 1 (commencing with Section 27500) of Chapter 4 of Division 6 of Title 4 of Part 6, or pursuant to any provision listed in subdivision (a) of Section 16585.

(F) Forms provided pursuant to Section 12084, as that section read prior to being repealed on January 1, 2006.

(G) Reports provided pursuant to Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) of Chapter 2 of Division 6 of Title 4 of Part 6, that are not Dealers' Records of Sale of firearms.

(H) Information provided pursuant to Section 28255.

(I) Reports of stolen, lost, found, pledged, or pawned property in any city or county of this state.

(2) The Attorney General shall, upon proper application therefor, furnish the information to the officers referred to in Section 11105.

(b) (1) The Attorney General shall permanently keep and properly file and maintain all information reported to the Department of Justice pursuant to the following provisions as to firearms and maintain a registry thereof:

(A) Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) of Chapter 2 of Division 6 of Title 4 of Part 6.

(B) Article 1 (commencing with Section 27500) of Chapter 4 of Division 6 of Title 4 of Part 6.

(C) Chapter 5 (commencing with Section 28050) of Division 6 of Title 4 of Part 6.

(D) Any provision listed in subdivision (a) of Section 16585.

(E) Former Section 12084.

(F) Section 28255.

(G) Section 29180.

(H) Any other law.

(2) The registry shall consist of all of the following:

(A) The name, address, identification of, place of birth (state or country), complete telephone number, occupation, sex, description, and all legal names and aliases ever used by the owner or person being loaned the particular firearm as listed on the information provided to the department on the Dealers' Record of Sale, the Law Enforcement Firearms Transfer (LEFT), as defined in former Section 12084, or reports made to the department pursuant to any provision listed in subdivision (a) of Section 16585, Section 28255 or 29180, or any other law.

(B) The name and address of, and other information about, any person (whether a dealer or a private party) from whom the owner acquired or the person being loaned the particular firearm and when the firearm was acquired or loaned as listed on the information provided to the department on the Dealers' Record of Sale, the LEFT, or reports made to the department pursuant to any provision listed in subdivision (a) of Section 16585 or any other law.

(C) Any waiting period exemption applicable to the transaction which resulted in the owner of or the person being loaned the particular firearm acquiring or being loaned that firearm.

(D) The manufacturer's name if stamped on the firearm, model name or number if stamped on the firearm, and, if applicable, the serial number, other number (if more than one serial number is stamped on the firearm), caliber, type of firearm, if the firearm is new or used, barrel length, and color of the firearm, or, if the firearm is not a handgun and does not have a serial number or any identification number or mark assigned to it, that shall be noted.

(3) Information in the registry referred to in this subdivision shall, upon proper application therefor, be furnished to the officers referred to in Section 11105, to a city attorney prosecuting a civil action, solely for use in prosecuting that civil action and not for any other purpose, or to the person listed in the registry as the owner or person who is listed as being loaned the particular firearm.

(4) If any person is listed in the registry as the owner of a firearm through a Dealers' Record of Sale prior to 1979, and the person listed in the registry requests by letter that the Attorney General store and keep the record electronically, as well as in the record's existing photographic, photostatic, or nonerasable optically stored form, the Attorney General shall do so within three working days of receipt of the request. The Attorney General shall, in writing, and as soon as practicable, notify the person requesting electronic storage of the record that the request has been honored as required by this paragraph.

(c) (1) If the conditions specified in paragraph (2) are met, any officer referred to in paragraphs (1) to (6), inclusive, of subdivision (b) of Section 11105 may disseminate the name of the subject of the record, the number of the firearms listed in the record, and the description of any firearm, including the make, model, and caliber, from the record relating to any firearm's sale, transfer, registration, or license record, or any information reported to the Department of Justice pursuant to any of the following:

(A) Section 26225, 26556, 27875, 27920, 27966, or 29180.

(B) Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) of Chapter 2 of Division 6 of Title 4 of Part 6.

(C) Article 1 (commencing with Section 27500) of Chapter 4 of Division 6 of Title 4 of Part 6.

(D) Chapter 5 (commencing with Section 28050) of Division 6 of Title 4 of Part 6.

(E) Article 2 (commencing with Section 28150) of Chapter 6 of Division 6 of Title 4 of Part 6.

(F) Article 5 (commencing with Section 30900) of Chapter 2 of Division 10 of Title 4 of Part 6.

(G) Chapter 2 (commencing with Section 33850) of Division 11 of Title 4 of Part 6.

(H) Any provision listed in subdivision (a) of Section 16585.

(2) Information may be disseminated pursuant to paragraph (1) only if all of the following conditions are satisfied:

(A) The subject of the record has been arraigned for a crime in which the victim is a person described in subdivisions (a) to (f), inclusive, of Section 6211 of the Family Code and is being prosecuted or is serving a sentence for the crime, or the subject of the record is the subject of an emergency protective order, a temporary restraining order, or an order after hearing, which is in effect and has been issued by a family court under the Domestic Violence Prevention Act set forth in Division 10 (commencing with Section 6200) of the Family Code.

(B) The information is disseminated only to the victim of the crime or to the person who has obtained the emergency protective order, the temporary restraining order, or the order after hearing issued by the family court.

(C) Whenever a law enforcement officer disseminates the information authorized by this subdivision, that officer or another officer assigned to the case shall immediately provide the victim of the crime with a "Victims of Domestic Violence" card, as specified in subparagraph (H) of paragraph (9) of subdivision (c) of Section 13701.

(3) The victim or person to whom information is disseminated pursuant to this subdivision may disclose it as they deem necessary to protect themselves or another person from bodily harm by the person who is the subject of the record.

SEC. 3. Section 11108.2 of the Penal Code is amended to read:

11108.2. (a) A law enforcement agency shall enter or cause to be entered into the Department of Justice Automated Firearms System each firearm that has been reported stolen, lost, found, recovered, held for safekeeping, or under observation, within seven calendar days after being notified of the precipitating event.

(b) Information about a firearm entered into the automated system for firearms shall remain in the system until the reported firearm has been found, recovered, is no longer under observation, or the record is determined to have been entered in error.

(c) Any costs incurred by the Department of Justice to implement subdivision (b) shall be reimbursed from funds other than fees charged and collected pursuant to Sections 28225, 28230, and 28233.

(d) As used in this section, "law enforcement agency" means a police or sheriff's department, or any department or agency of the state or any political subdivision thereof that employs any peace officer as defined in Section 830, including, but not limited to, the Department of the California Highway Patrol, the Department of Fish and Wildlife, the University of California or California State University Police Departments, and the police department of any school district, transit district, airport, and harbor, port, or housing authority.

SEC. 4. Section 16520 of the Penal Code is amended to read:

16520. (a) As used in this part, "firearm" means a device, designed to be used as a weapon, from which is expelled through a barrel, a projectile by the force of an explosion or other form of combustion.

(b) As used in the following provisions, "firearm" includes the frame or receiver of the weapon:

(1) Section 16550.

(2) Section 16730.

(3) Section 16960.

(4) Section 16990.

(5) Section 17070.

(6) Section 17310.

(7) Sections 26500 to 26588, inclusive.

(8) Sections 26600 to 27140, inclusive.

(9) Sections 27400 to 28000, inclusive.

(10) Section 28100.

- (11) Sections 28400 to 28415, inclusive.
- (12) Sections 29010 to 29150, inclusive.
- (13) Section 29180.
- (14) Sections 29610 to 29750, inclusive.
- (15) Sections 29800 to 29905, inclusive.
- (16) Sections 30150 to 30165, inclusive.
- (17) Section 31615.
- (18) Sections 31705 to 31830, inclusive.
- (19) Sections 34355 to 34370, inclusive.
- (20) Sections 8100, 8101, and 8103 of the Welfare and Institutions Code.

(c) As used in the following provisions, "firearm" also includes a rocket, rocket propelled projectile launcher, or similar device containing an explosive or incendiary material, whether or not the device is designed for emergency or distress signaling purposes:

- (1) Section 16750.
- (2) Subdivision (b) of Section 16840.
- (3) Section 25400.
- (4) Sections 25850 to 26025, inclusive.
- (5) Subdivisions (a), (b), and (c) of Section 26030.
- (6) Sections 26035 to 26055, inclusive.

(d) As used in the following provisions, "firearm" does not include an unloaded antique firearm:

- (1) Section 16730.
- (2) Section 16550.
- (3) Section 16960.
- (4) Section 17310.
- (5) Chapter 6 (commencing with Section 26350) of Division 5 of Title 4.
- (6) Chapter 7 (commencing with Section 26400) of Division 5 of Title 4.
- (7) Sections 26500 to 26588, inclusive.
- (8) Sections 26700 to 26915, inclusive.
- (9) Section 27510.
- (10) Section 27530.
- (11) Section 27540.
- (12) Section 27545.
- (13) Sections 27555 to 27585, inclusive.
- (14) Sections 29010 to 29150, inclusive.
- (15) Section 25135.
- (16) Section 29180.

(e) As used in Sections 34005 and 34010, "firearm" does not include a destructive device.

(f) As used in Sections 17280 and 24680, "firearm" has the same meaning as in Section 922 of Title 18 of the United States Code.

(g) As used in Sections 29010 to 29150, inclusive, "firearm" includes the unfinished frame or receiver of a weapon that can be readily converted to the functional condition of a finished frame or receiver.

SEC. 5. Section 16730 of the Penal Code is amended to read:

16730. (a) As used in Section 31815 and in Division 6 (commencing with Section 26500) of Title 4, "infrequent" means both of the following are true:

(1) The person conducts less than six transactions per calendar year.

(2) The person sells, leases, or transfers no more than 50 total firearms per calendar year.

(b) As used in this section, "transaction" means a single sale, lease, or transfer of any number of firearms.

SEC. 6. Section 25555 of the Penal Code is amended to read:

25555. Section 25400 does not apply to, or affect, the transportation of a firearm by a person in order to comply with Section 26556, 27870, 27875, 27915, 27920, 27925, 29810, or 29830, as it pertains to that firearm.

SEC. 7. Section 26379 of the Penal Code is amended to read:

26379. Paragraph (1) of subdivision (a) of Section 26350 does not apply to, or affect, the open carrying of an unloaded handgun incident to any of the following:

(a) Complying with Section 27560 or 27565, as it pertains to that handgun.

(b) Section 28000, as it pertains to that handgun.

(c) Section 27850 or 31725, as it pertains to that handgun.

(d) Complying with Section 27870 or 27875, as it pertains to that handgun.

(e) Complying with Section 26556, 27915, 27920, 27925, 29810, or 29830, as it pertains to that handgun.

SEC. 8. Section 26384 of the Penal Code is amended to read:

26384. Paragraph (1) of subdivision (a) of Section 26350 does not apply to, or affect, the open carrying of an unloaded handgun if all of the following conditions are satisfied:

(a) The open carrying occurs at an auction, raffle, or similar event of a nonprofit public benefit or mutual benefit corporation, at which firearms are auctioned or otherwise sold to fund the activities of that corporation or the local chapters of that corporation.

(b) The unloaded handgun is to be auctioned or otherwise sold for that nonprofit public benefit or mutual benefit corporation.

(c) The unloaded handgun is to be delivered by a person licensed pursuant to, and operating in accordance with, Sections 26700 to 26915, inclusive.

SEC. 9. Section 26405 of the Penal Code is amended to read:

26405. Section 26400 does not apply to, or affect, the carrying of an unloaded firearm that is not a handgun in any of the following circumstances:

(a) By a person when carried within a place of business, a place of residence, or on private real property, if that person, by virtue of subdivision (a) of Section 25605, may carry a firearm within that place of business, place of residence, or on that private real property owned or lawfully occupied by that person.

(b) By a person when carried within a place of business, a place of residence, or on private real property, if done with the permission of a person who, by virtue of subdivision (a) of Section 25605, may carry a firearm within that place of business, place of residence, or on that private real property owned or lawfully occupied by that person.

- (c) When the firearm is either in a locked container or encased and it is being transported directly between places where a person is not prohibited from possessing that firearm and the course of travel shall include only those deviations between authorized locations as are reasonably necessary under the circumstances.
- (d) If the person possessing the firearm reasonably believes that they are in grave danger because of circumstances forming the basis of a current restraining order issued by a court against another person or persons who has or have been found to pose a threat to the person's life or safety. This subdivision may not apply when the circumstances involve a mutual restraining order issued pursuant to Division 10 (commencing with Section 6200) of the Family Code absent a factual finding of a specific threat to the person's life or safety. Upon a trial for violating Section 26400, the trier of fact shall determine whether the defendant was acting out of a reasonable belief that they were in grave danger.
- (e) By a peace officer or an honorably retired peace officer if that officer may carry a concealed firearm pursuant to Article 2 (commencing with Section 25450) of Chapter 2, or a loaded firearm pursuant to Article 3 (commencing with Section 25900) of Chapter 3.
- (f) By a person to the extent that person may openly carry a loaded firearm that is not a handgun pursuant to Article 4 (commencing with Section 26000) of Chapter 3.
- (g) As merchandise by a person who is engaged in the business of manufacturing, importing, wholesaling, repairing, or dealing in firearms and who is licensed to engage in that business, or the authorized representative or authorized agent of that person, while engaged in the lawful course of the business.
- (h) By a duly authorized military or civil organization, or the members thereof, while parading or while rehearsing or practicing parading, when at the meeting place of the organization.
- (i) By a member of a club or organization organized for the purpose of practicing shooting at targets upon established target ranges, whether public or private, while the members are using firearms that are not handguns upon the target ranges or incident to the use of a firearm that is not a handgun at that target range.
- (j) By a licensed hunter while engaged in hunting or while transporting that firearm when going to or returning from that hunting expedition.
- (k) Incident to transportation of a handgun by a person operating a licensed common carrier, or by an authorized agent or employee thereof, when transported in conformance with applicable federal law.
- (l) By a member of an organization chartered by the Congress of the United States or a nonprofit mutual or public benefit corporation organized and recognized as a nonprofit tax-exempt organization by the Internal Revenue Service while on official parade duty or ceremonial occasions of that organization or while rehearsing or practicing for official parade duty or ceremonial occasions.
- (m) Within a gun show conducted pursuant to Article 1 (commencing with Section 27200) and Article 2 (commencing with Section 27300) of Chapter 3 of Division 6.
- (n) Within a school zone, as defined in Section 626.9, if that carrying is not prohibited by Section 626.9.
- (o) When in accordance with the provisions of Section 171b.
- (p) By a person while engaged in the act of making or attempting to make a lawful arrest.
- (q) By a person engaged in firearms-related activities, while on the premises of a fixed place of business that is licensed to conduct and conducts, as a regular course of its business, activities related to the sale, making, repair, transfer, pawn, or the use of firearms, or related to firearms training.
- (r) By an authorized participant in, or an authorized employee or agent of a supplier of firearms for, a motion picture, television, or video production or entertainment event, when the participant lawfully uses that firearm as part of that production or event, as part of rehearsing or practicing for participation in that production or event, or while the participant or authorized employee or agent is at that production or event, or rehearsal or practice for that production or event.
- (s) Incident to obtaining an identification number or mark assigned for that firearm from the Department of Justice pursuant to Section 23910.
- (t) At an established public target range while the person is using that firearm upon that target range.
- (u) By a person when that person is summoned by a peace officer to assist in making arrests or preserving the peace, while the person is actually engaged in assisting that officer.

(v) Incident to any of the following:

- (1) Complying with Section 27560 or 27565, as it pertains to that firearm.
- (2) Section 28000, as it pertains to that firearm.
- (3) Section 27850 or 31725, as it pertains to that firearm.
- (4) Complying with Section 27870 or 27875, as it pertains to that firearm.
- (5) Complying with Section 26556, 27915, 27920, 27925, 27966, 29810, or 29830, as it pertains to that firearm.

(w) Incident to, and in the course and scope of, training of, or by an individual to become a sworn peace officer as part of a course of study approved by the Commission on Peace Officer Standards and Training.

(x) Incident to, and in the course and scope of, training of, or by an individual to become licensed pursuant to Chapter 4 (commencing with Section 26150) as part of a course of study necessary or authorized by the person authorized to issue the license pursuant to that chapter.

(y) Incident to and at the request of a sheriff, chief, or other head of a municipal police department.

(z) If all of the following conditions are satisfied:

- (1) The open carrying occurs at an auction, raffle, or similar event of a nonprofit public benefit or mutual benefit corporation at which firearms are auctioned, raffled, or otherwise sold to fund the activities of that corporation or the local chapters of that corporation.
- (2) The unloaded firearm that is not a handgun is to be auctioned, raffled, or otherwise sold for that nonprofit public benefit or mutual benefit corporation.
- (3) The unloaded firearm that is not a handgun is to be delivered by a person licensed pursuant to, and operating in accordance with, Sections 26700 to 26915, inclusive.

(aa) Pursuant to paragraph (3) of subdivision (b) of Section 171c.

(ab) Pursuant to Section 171d.

(ac) Pursuant to subparagraph (F) of paragraph (1) of subdivision (c) of Section 171.7.

(ad) On publicly owned land, if the possession and use of an unloaded firearm that is not a handgun is specifically permitted by the managing agency of the land and the person carrying that firearm is in lawful possession of that firearm.

(ae) By any of the following:

- (1) The carrying of an unloaded firearm that is not a handgun that is regulated pursuant to Chapter 1 (commencing with Section 18710) of Division 5 of Title 2 by a person who holds a permit issued pursuant to Article 3 (commencing with Section 18900) of that chapter, if the carrying of that firearm is conducted in accordance with the terms and conditions of the permit.
- (2) The carrying of an unloaded firearm that is not a handgun that is regulated pursuant to Chapter 2 (commencing with Section 30500) of Division 10 by a person who holds a permit issued pursuant to Section 31005, if the carrying of that firearm is conducted in accordance with the terms and conditions of the permit.
- (3) The carrying of an unloaded firearm that is not a handgun that is regulated pursuant to Chapter 6 (commencing with Section 32610) of Division 10 by a person who holds a permit issued pursuant to Section 32650, if the carrying of that firearm is conducted in accordance with the terms and conditions of the permit.
- (4) The carrying of an unloaded firearm that is not a handgun that is regulated pursuant to Article 2 (commencing with Section 33300) of Chapter 8 of Division 10 by a person who holds a permit issued pursuant to Section 33300, if the carrying of that firearm is conducted in accordance with the terms and conditions of the permit.

(af) By a licensed hunter while actually engaged in training a dog for the purpose of using the dog in hunting that is not prohibited by law, or while transporting the firearm while going to or returning from that training.

(ag) Pursuant to the provisions of subdivision (d) of Section 171.5.

(ah) By a person who is engaged in the business of manufacturing ammunition and who is licensed to engage in that business, or the authorized representative or authorized agent of that person, while the firearm is being used in the lawful course and scope of

the licensee's activities as a person licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and regulations issued pursuant thereto.

(ai) On the navigable waters of this state that are held in public trust, if the possession and use of an unloaded firearm that is not a handgun is not prohibited by the managing agency thereof and the person carrying the firearm is in lawful possession of the firearm.

SEC. 10. Section 26515 of the Penal Code is amended to read:

26515. Section 26500 does not apply to the sale, lease, or transfer of a firearm if both of the following conditions are satisfied:

(a) The sale, lease, or transfer is made by a person who obtains title to the firearm by any of the following means:

(1) Intestate succession or bequest.

(2) As the beneficiary of a trust that includes a firearm.

(3) As a surviving spouse pursuant to Chapter 1 (commencing with Section 13500) of Part 2 of Division 8 of the Probate Code.

(4) As decedent's successor pursuant to Part 1 (commencing with Section 13000) of Division 8 of the Probate Code.

(b) The person disposes of the firearm within 60 days of receipt of the firearm.

SEC. 11. Section 26540 of the Penal Code is amended to read:

26540. Section 26500 does not apply to sales, deliveries, transfers, or returns of firearms made pursuant to any of the following:

(a) Sections 18000 and 18005.

(b) Division 4 (commencing with Section 18250) of Title 2.

(c) Section 29810.

(d) Chapter 2 (commencing with Section 33850) of Division 11.

(e) Sections 34005 and 34010.

SEC. 12. Section 26556 is added to the Penal Code, to read:

26556. Section 26500 does not apply to the sale, delivery, or transfer of a firearm that satisfies all of the following requirements:

(a) It is made by a person who has ceased operations as a dealer.

(b) It is made to a dealer, a manufacturer, importer, or wholesaler.

(c) It is made in accordance with Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(d) The transaction is reported to the Department of Justice in a manner and format prescribed by the department.

SEC. 12.1. Section 26556 is added to the Penal Code, to read:

26556. (a) Section 26500 does not apply to the sale, delivery, or transfer of a firearm that satisfies all of the following requirements:

(1) It is made by a person who has ceased operations as a dealer.

(2) It is made to a dealer, a manufacturer, importer, or wholesaler.

(3) It is made in accordance with Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(4) The transaction is reported to the Department of Justice in a manner and format prescribed by the department.

(b) If the report required by this section is submitted by mail, the department may charge the person making the report a surcharge, not to exceed twenty dollars (\$20), for the reasonable cost of receiving and processing the report.

SEC. 13. Section 26576 is added to the Penal Code, to read:

26576. (a) Section 26500 does not apply to a sale, delivery, or transfer of firearms if both of the following requirements are satisfied:

(1) The sale, delivery, or transfer is to an authorized representative of a city, city and county, county, or state government, or of the federal government, and is for the governmental entity.

(2) The entity is acquiring the firearm as part of an authorized, voluntary program in which the entity is buying or receiving firearms from private individuals.

(b) Any weapons acquired pursuant to subdivision (a) of this section shall be disposed of pursuant to the applicable provisions of Section 34000 or Sections 18000 and 18005.

SEC. 14. Section 26577 is added to the Penal Code, to read:

26577. Section 26500 does not apply to a delivery or transfer of firearms made to a dealer pursuant to Section 29830 for storage by that dealer.

SEC. 15. Section 26581 is added to the Penal Code, to read:

26581. Section 26500 does not apply to the delivery, sale, or transfer of an unloaded firearm that is not a handgun to a dealer if the delivery, sale, or transfer satisfies both of the following conditions:

(a) The delivery, sale, or transfer is made by a nonprofit public benefit or mutual benefit corporation, including a local chapter of the same nonprofit corporation, organized pursuant to the Corporations Code.

(b) The sale or other transfer of ownership of that firearm is to occur as part of an auction, raffle, or similar event conducted by that nonprofit public benefit or mutual benefit corporation organized pursuant to the Corporations Code.

SEC. 16. Section 26805 of the Penal Code is amended to read:

26805. (a) Except as provided in subdivisions (b) and (c), the business of a licensee shall be conducted only in the buildings designated in the license.

(b) (1) A person licensed pursuant to Sections 26700 and 26705 may take possession of firearms and commence preparation of registers for the sale, delivery, or transfer of firearms at any gun show or event, as defined in Section 478.100 of Title 27 of the Code of Federal Regulations, or its successor, if the gun show or event is not conducted from any motorized or towed vehicle. A person conducting business pursuant to this subdivision shall be entitled to conduct business as authorized herein at any gun show or event in the state, without regard to the jurisdiction within this state that issued the license pursuant to Sections 26700 and 26705, provided the person complies with all applicable laws, including, but not limited to, the waiting period specified in subdivision (a) of Section 26815, and all applicable local laws, regulations, and fees, if any.

(2) A person conducting business pursuant to this subdivision shall publicly display the person's license issued pursuant to Sections 26700 and 26705, or a facsimile thereof, at any gun show or event, as specified in this subdivision.

(c) (1) A person licensed pursuant to Sections 26700 and 26705 may engage in the sale and transfer of firearms other than handguns, at events specified in Sections 27900 and 27905, subject to the prohibitions and restrictions contained in those sections.

(2) A person licensed pursuant to Sections 26700 and 26705 may also accept delivery of firearms other than handguns, outside the building designated in the license, provided the firearm is being donated for the purpose of sale or transfer at an auction, raffle, or similar event specified in Section 27900.

(d) The firearm may be delivered to the purchaser, transferee, or person being loaned the firearm at one of the following places:

(1) The building designated in the license.

(2) The places specified in subdivision (b) or (c).

(3) The place of residence of, the fixed place of business of, or on private property owned or lawfully possessed by, the purchaser, transferee, or person being loaned the firearm.

SEC. 17. Section 26890 of the Penal Code is amended to read:

26890. (a) Except as provided in subdivisions (b) and (c) of Section 26805, any time when the licensee is not open for business, all inventory firearms shall be stored in the licensed location. All firearms shall be secured using one of the following methods as to each particular firearm:

(1) Store the firearm in a secure facility that is a part of, or that constitutes, the licensee's business premises.

(2) Secure the firearm with a hardened steel rod or cable of at least one-eighth inch in diameter through the trigger guard of the firearm. The steel rod or cable shall be secured with a hardened steel lock that has a shackle. The lock and shackle shall be protected or shielded from the use of a boltcutter and the rod or cable shall be anchored in a manner that prevents the removal of the firearm from the premises.

(3) Store the firearm in a locked fireproof safe or vault in the licensee's business premises.

(b) The licensing authority in an unincorporated area of a county or within a city may impose security requirements that are more strict or are at a higher standard than those specified in subdivision (a).

(c) Upon written request from a licensee, the licensing authority may grant an exemption from compliance with the requirements of subdivision (a) if the licensee is unable to comply with those requirements because of local ordinances, covenants, lease conditions, or similar circumstances not under the control of the licensee.

(d) Subdivisions (a) and (b) shall not apply to a licensee organized as a nonprofit public benefit corporation pursuant to Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code, or as a mutual benefit corporation pursuant to Part 3 (commencing with Section 7110) of Division 2 of Title 1 of the Corporations Code, if both of the following conditions are satisfied:

(1) The nonprofit public benefit or mutual benefit corporation obtained the dealer's license solely and exclusively to assist that corporation or local chapters of that corporation in conducting auctions, raffles, or similar events at which firearms are auctioned or raffled off to fund the activities of that corporation or the local chapters of the corporation.

(2) The firearms are not handguns.

SEC. 18. Section 26955 of the Penal Code is repealed.

SEC. 19. Section 27655 of the Penal Code is repealed.

SEC. 20. Section 27820 of the Penal Code is repealed.

SEC. 21. Section 27820 is added to the Penal Code, to read:

27820. (a) Section 27555 does not apply to the sale, loan, or transfer of a firearm by or to a person who is licensed as a collector pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto who is not otherwise licensed as a dealer, manufacturer, or importer of firearms licensed to engage in that business pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(b) Section 27555 does not apply to the sale, loan, or transfer of a firearm if both of the following conditions apply:

(1) The sale, loan, or transfer is by or to a person who is licensed as an importer or manufacturer of ammunition licensed to engage in business pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(2) The person selling, loaning, or transferring the firearm or purchasing that firearm, being transferred that firearm, or being loaned that firearm is not also licensed as an importer or manufacturer of firearms who is licensed to engage in business pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

SEC. 22. Section 27900 of the Penal Code is repealed.

SEC. 23. Section 27900 is added to the Penal Code, to read:

27900. Section 27545 does not apply to the loan of a firearm other than a handgun at an auction, raffle, or similar event conducted by a nonprofit public benefit or mutual benefit corporation organized pursuant to the Corporations Code if all of the

following apply:

- (a) The firearm at all times remains on the premises where the auction, raffle, or similar event occurs.
- (b) The firearm is to be auctioned, raffled, or otherwise sold for the benefit of that nonprofit public benefit or mutual benefit corporation.
- (c) The firearm, when sold or otherwise transferred, is delivered to a person licensed pursuant to, and operating in accordance with, Sections 26700 to 26915, inclusive, for sale or other transfer to the person who purchased or otherwise acquired ownership of the firearm.

SEC. 24. Section 27905 of the Penal Code is amended to read:

27905. Section 27545 does not apply to the transfer of a firearm if all of the following requirements are satisfied:

- (a) The firearm is not a handgun.
- (b) The firearm is donated for an auction, raffle, or similar event described in Section 27900.
- (c) The firearm is delivered to the nonprofit corporation immediately preceding, or contemporaneous with, the auction, raffle, or similar event.

SEC. 25. Section 27937 is added to the Penal Code, to read:

27937. Section 27545 does not apply to sales, deliveries, or transfers of firearms made pursuant to Section 26556.

SEC. 26. Section 27966 of the Penal Code is amended to read:

27966. If all of the following requirements are satisfied, Section 27545 shall not apply to the sale, loan, or transfer of a firearm:

- (a) The firearm is not a handgun.
- (b) The firearm is a curio or relic, as defined in Section 478.11 of Title 27 of the Code of Federal Regulations, or its successor.
- (c) The person receiving the firearm has a current certificate of eligibility issued pursuant to Section 26710.
- (d) The person receiving the firearm is licensed as a collector pursuant to Chapter 44 of Title 18 of the United States Code and the regulations issued thereto.
- (e) Within 30 days of taking possession of the firearm, the person to whom it is transferred shall forward by prepaid mail, or deliver in person to the Department of Justice, a report that includes information concerning the individual taking possession of the firearm, how title was obtained and from whom, and a description of the firearm in question. The report forms that individuals complete pursuant to this section shall be provided to them by the department.

SEC. 26.1. Section 27966 of the Penal Code is amended to read:

27966. If all of the following requirements are satisfied, Section 27545 shall not apply to the sale, loan, or transfer of a firearm:

- (a) The firearm is not a handgun.
- (b) The firearm is a curio or relic, as defined in Section 478.11 of Title 27 of the Code of Federal Regulations, or its successor.
- (c) The person receiving the firearm has a current certificate of eligibility issued pursuant to Section 26710.
- (d) The person receiving the firearm is licensed as a collector pursuant to Chapter 44 of Title 18 of the United States Code and the regulations issued thereto.
- (e) Within 30 days of taking possession of the firearm, the person to whom it is transferred shall, in a manner and format prescribed by the department, submit a report that includes information concerning the individual taking possession of the firearm, how title was obtained and from whom, and a description of the firearm in question.
- (f) If the report required by this section is submitted by mail, the department may charge the person making the report a surcharge, not to exceed twenty dollars (\$20), for the reasonable cost of receiving and processing the report.

SEC. 27. Section 28230 of the Penal Code is amended to read:

28230. (a) The Department of Justice may charge a fee sufficient to reimburse it for each of the following but not to exceed fourteen dollars (\$14), except that the fee may be increased at a rate not to exceed any increase in the California Consumer Price Index as compiled and reported by the Department of Industrial Relations:

(1) For the actual costs associated with the preparation, sale, processing, and filing of forms or reports required or utilized pursuant to any provision listed in subdivision (a) of Section 16585.

(2) For the actual processing costs associated with the submission of a Dealers' Record of Sale to the department.

(3) For the actual costs associated with the preparation, sale, processing, and filing of reports utilized pursuant to Section 26556, 26905, 27565, 27875, 27966, or 28000, paragraph (1) of subdivision (a) of Section 27560, or paragraphs (1) and (2) of subdivision (a) of, and subdivisions (b), (c), and (d) of, Section 27920.

(4) For the actual costs associated with the electronic or telephonic transfer of information pursuant to Section 28215.

(b) If the department charges a fee pursuant to paragraph (2) of subdivision (a), it shall be charged in the same amount to all categories of transaction that are within that paragraph.

(c) Any costs incurred by the Department of Justice to implement this section shall be reimbursed from fees collected and charged pursuant to this section. No fees shall be charged to the dealer pursuant to Section 28225 for implementing this section.

SEC. 27.1. Section 28230 of the Penal Code is amended to read:

28230. (a) The Department of Justice may charge a fee sufficient to reimburse it for each of the following but not to exceed fourteen dollars (\$14), except that the fee may be increased at a rate not to exceed any increase in the California Consumer Price Index as compiled and reported by the Department of Industrial Relations:

(1) For the actual costs associated with the preparation, sale, processing, and filing of forms or reports required or utilized pursuant to any provision listed in subdivision (a) of Section 16585.

(2) For the actual costs associated with the preparation, sale, processing, and filing of reports utilized pursuant to Section 26556, 26905, 27565, 27875, 27966, or 28000, paragraph (1) of subdivision (a) of Section 27560, or paragraphs (1) and (2) of subdivision (a) of, and subdivisions (b), (c), and (d) of, Section 27920.

(3) For the actual costs associated with the electronic or telephonic transfer of information pursuant to Section 28215.

(b) Any costs incurred by the Department of Justice to implement this section shall be reimbursed from fees collected and charged pursuant to this section. No fees shall be charged to the dealer pursuant to Section 28225 for implementing this section.

SEC. 28. Section 29010 of the Penal Code is amended to read:

29010. (a) A person, firm, or corporation licensed to manufacture firearms pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code shall not manufacture firearms within this state unless that person, firm, or corporation is licensed pursuant to Chapter 2 (commencing with Section 29030).

(b) Subdivision (a) does not apply to a person licensed to manufacture firearms pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code who manufactures fewer than 50 firearms in a calendar year within this state.

(c) If a person, firm, or corporation required to be licensed pursuant to Chapter 2 (commencing with Section 29030) ceases operations, then the records required pursuant to Section 29130 and subdivision (b) of Section 29115 shall be forwarded to the federal Bureau of Alcohol, Tobacco, Firearms and Explosives within three days of the closure of business.

(d) A violation of this section is a misdemeanor.

SEC. 29. The changes made by this act that add Section 27820 to the Penal Code are declaratory of existing law.

SEC. 30. (a) Section 26.1 of this bill incorporates amendments to Section 27966 of the Penal Code proposed by both this bill and Assembly Bill 1009. That section shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2020, (2) each bill amends Section 27966 of the Penal Code, and (3) this bill is enacted after Assembly Bill 1009, in which case Section 26 of this bill shall not become operative.

(b) Section 27.1 of this bill incorporates amendments to Section 28230 of the Penal Code proposed by both this bill and Assembly Bill 1009. That section shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2020, (2) each bill amends Section 28230 of the Penal Code, and (3) this bill is enacted after Assembly Bill 1009, in which case Section 27 of this bill shall not become operative.

SEC. 31. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 32. (a) Section 3 of this act, amending Section 11108.2 of the Penal Code, shall take effect only if Assembly Bill 1669 of the 2019–20 Regular Session is enacted, becomes operative, and adds Section 28233 to the Penal Code.

(b) Section 12.1 of this act, amending Section 26556 of the Penal Code, shall take effect only if Assembly Bill 1009 of the 2019–20 Regular Session is enacted, becomes operative, and amends Section 27966 of the Penal Code, in which case Section 12 of this bill shall not become operative.